

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

| | | |
|-----------------------------|---|--------------------------|
| IN RE: |) | Chapter 11 |
| |) | |
| EASTERN LIVESTOCK CO., LLC, |) | Case No. 10-93904-BHL-11 |
| |) | |
| Debtor. |) | Hon. Basil H. Lorch III |

**TRUSTEE'S MOTION FOR AUTHORITY TO DESTROY DOCUMENTS AND TO PAY
THE COSTS ASSOCIATED WITH THE DESTRUCTION**

James A. Knauer, the Chapter 11 Trustee appointed in this case ("Trustee"), by counsel, requests entry of an order, pursuant to 11 U.S.C. §§105 and 503, authorizing the Trustee to shred and destroy documents located at Eastern Livestock Co., LLC's ("ELC") document storage facility The Data Vault located in Louisville, Kentucky and to pay the costs associated with the shredding and destruction as an administrative expense on the following grounds:

I. JURISDICTION

1. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. §157(b)(2).
2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for relief are sections 105 and 503 of Title 11 of the United States Code (the "Bankruptcy Code").

II. BACKGROUND

4. On December 6, 2010, petitioning creditors commenced the above-captioned chapter 11 case against Debtor by filing an involuntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§101 et seq. On December 27, 2010 the James A. Knauer was appointed as Trustee.

5. In connection with the preparation with the preference and adversary cases filed by the Trustee on behalf of ELC, The Data Vault has stored approximately 924 boxes of documents ("Documents") since the inception on the case.

6. The estimated costs for the shredding and destruction of the Documents is \$6,400.00.

7. The Trustee currently pays a monthly fee of \$372.95 to store the boxes with The Data Vault. The Trustee has determined that it would be the best economical sense to have the Documents shredded and destroyed.

III. RELIEF REQUESTED

8. The Trustee requests entry of an order, pursuant to section 105 of the Bankruptcy Code, authorizing the Trustee to (a) shred and destroy the Documents in an environmentally responsible manner; and (b) pay the costs associated with the shredding and destruction of the Documents as an administrative expense of the Debtor's bankruptcy estate.

IV. GROUNDS FOR GRANTING RELIEF

9. Section 105(a) of the Bankruptcy Code provides that "[t]he Court may issue any order, process, or judgement that is necessary or appropriate to carry out the provisions of this title."

10. In addition, pursuant to section 503(b)(1)(A) of the Bankruptcy Code, after notice and a hearing, the Court can allow administrative expenses for "the actual, necessary costs and expenses of preserving the estate." A claim is entitled to administrative status when such claim (a) arises from a post-petition transaction with the estate, and (b) the consideration for such payment is supplied to and benefited the estate. See *Matter of Jartrain, Inc.*, 732 F.2d 584, 586 (7th Cir. 1984).

11. The removal and destruction of the Documents will benefit the bankruptcy estate in that it will no longer have to pay a monthly fee for storage of the Documents. As such, the costs associated with the shredding and destruction of the Documents is an actual, necessary cost and expense of preserving assets of the bankruptcy estate.

WHEREFORE, the Trustee respectfully requests entry of an order authorizing: (i) the Trustee to shred and destroy the Documents in an environmentally responsible manner; (ii) payment of the costs associated with the shredding and destruction of the Documents as an administrative expense of the bankruptcy estate; and (iii) granting the Trustee all other just and proper relief.

Respectfully submitted,

KROGER, GARDIS & REGAS, LLP

By: /s/ James A. Knauer

James A. Knauer, Chapter 11 Trustee
111 Monument Circle, Suite 900
Indianapolis, Indiana 46204-5125
Telephone: 317-692-9000
Facsimile: 317-777-7451
jak@kgrlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2017, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

| | | |
|--|---|---|
| David L. Abt davidabt@mwt.net | Amelia Martin Adams aadam@dlgfirm.com | John W. Ames james@bgdlegal.com |
| Kay Dee Baird kbaird@kdlegal.com | Christopher E. Baker cbaker@thbkllaw.com | Robert A. Bell rabell@vorys.com |
| C. R. Bowles, Jr cbowles@bgdlegal.com | David W. Brangers dbrangers@lawyer.com | Steven A. Brehm sbrehm@bgdlegal.com |
| Kent A Britt kabritt@vorys.com | Kayla D. Britton kayla.britton@faegrebd.com | Joe Lee Brown Joe.Brown@Hardincounty.biz |
| Lisa Koch Bryant courtmail@fbhlaw.net | John R. Burns, III john.burns@faegrebd.com | John R. Carr, III jrciii@acs-law.com |
| Deborah Caruso dcaruso@daleeke.com | Ben T. Caughey ben.caughey@icemiller.com | Bret S. Clement bclement@acs-law.com |
| Joshua Elliott Clubb joshclubb@gmail.com | Jason W. Cottrell jwc@stuartlaw.com | Kirk Crutcher kcrutcher@mcs-law.com |
| Jack S. Dawson jdawson@millerdollarhide.com | Dustin R. DeNeal dustin.deneal@faegrebd.com | Laura Day Delcotto ldelcotto@dlgfirm.com |
| David Alan Domina dad@dominalaw.com | Daniel J. Donnellon ddonnellon@ficlaw.com | Trevor L. Earl tearl@rwsvlaw.com |
| Shawna M. Eikenberry shawna.eikenberry@faegrebd.com | Jeffrey R. Erler jerler@ghjhlaw.com | William K. Flynn wkflynn@strausstroy.com |
| Robert Hughes Foree robertforee@bellsouth.net | Sandra D. Freeburger sfreeburger@dsf-atty.com | Melissa S. Giberson msgiberson@vorys.com |
| Thomas P. Glass tpglass@strausstroy.com | Patrick B. Griffin patrick.griffin@kutakrock.com | Terry E. Hall terry.hall@faegrebd.com |
| Paul M. Hoffman paul.hoffmann@stinsonleonard.com | John David Hoover jdhoover@hooverhull.com | John Huffaker john.huffaker@sprouselaw.com |
| Jeffrey L Hunter jeff.hunter@usdoj.gov | Jay Jaffe jay.jaffe@faegrebd.com | James Bryan Johnston bjtexas59@hotmail.com |
| Todd J. Johnston tjohnston@mcjllp.com | Jill Zengler Julian Jill.Julian@usdoj.gov | Jay P. Kennedy jpk@kgrlaw.com |
| Edward M King tking@fbtlaw.com | James A. Knauer jak@kgrlaw.com | Erick P. Knoblock eknoblock@daleeke.com |
| Theodore A. Konstantinopoulos ndohbky@jbandr.com | Randall D. LaTour rdlatour@vorys.com | David A. Laird david.laird@moyewwhite.com |

| | | |
|--|---|---|
| David L. LeBas dlebas@nahanhowell.com | Martha R. Lehman mlehman@kdlegal.com | Scott R. Leisz sleisz@bgdlegal.com |
| Elliott D. Levin edl@rubin-levin.net | Kim Martin Lewis kim.lewis@dinslaw.com | James B. Lind jblind@vorys.com |
| Karen L. Lobring lobring@msn.com | Jason A. Lopp jlopp@wyattfirm.com | John Hunt Lovell john@lovell-law.net |
| Harmony A. Mappes harmony.mappes@faegrebd.com | John Frederick Massouh john.massouh@sprouselaw.com | Michael W. McClain mmclain@mcclaindeweese.com |
| Kelly Greene McConnell lisahughes@givenspursley.com | James Edwin McGhee mcghee@derbycitylaw.com | Brian H. Meldrum bmeldrum@stites.com |
| William Robert Meyer, II rmeyer@stites.com | Kevin J. Mitchell kevin.mitchell@faegrebd.com | Terrill K. Moffett kendalcantrell@moffettlaw.com |
| Allen Morris amorris@stites.com | Judy Hamilton Morse judy.morse@crowedunlevy.com | Erin Casey Nave enave@taftlaw.com |
| Matthew Daniel Neumann mneumann@hhclaw.com | Walter Scott Newbern wsnewbern@msn.com | Shiv Ghuman O'Neill shiv.oneill@faegrebd.com |
| Matthew J. Ochs kim.maynes@moyewhite.com | Jessica Lynn Olsheski jessica.olsheski@justice-law.net | Michael Wayne Oyler moyler@rwsvlaw.com |
| Ross A. Plourde ross.plourde@mcafeetaft.com | Brian Robert Pollock bpollock@stites.com | Wendy W. Ponader wendy.ponader@faegrebd.com |
| Timothy T. Pridmore tpridmore@mcjllp.com | Anthony G. Raluy traluy@fbhlaw.net | Eric C. Redman ksmith@redmanludwig.com |
| Eric W. Richardson ewrichardson@vorys.com | Joe T. Roberts jratty@windstream.net | David Cooper Robertson crobertson@stites.com |
| Mark A. Robinson mrobinson@vhlaw.com | Jeremy S. Rogers Jeremy.Rogers@dinslaw.com | John M. Rogers johnr@rubin-levin.net |
| Joseph H. Rogers jrogers@millerdollarhide.com | James E. Rossow jim@rubin-levin.net | Steven Eric Runyan ser@kgrlaw.com |
| Niccole R. Sadowski nsadowski@thbklaw.com | Thomas C. Scherer tscherer@bgdlegal.com | Stephen E. Schilling seschilling@strausstroy.com |
| Ivana B. Shallcross ishallcross@bgdlegal.com | Sarah Elizabeth Sharp sarah.sharp@faegrebd.com | Suzanne M Shehan suzanne.shehan@kutakrock.com |
| James E. Smith, Jr. jsmith@smithakins.com | William E. Smith, III wsmith@kglaw.com | Amanda Dalton Stafford ads@kgrlaw.com |
| Joshua N. Stine kabritt@vorys.com | Andrew D. Stosberg astosberg@lloydmc.com | Matthew R. Strzynski indyattorney@hotmail.com |
| Meredith R. Theisen mtheisen@dalee.com | John M. Thompson john.thompson@crowedunlevy.com | Kevin M. Toner kevin.toner@faegrebd.com |
| Christopher M. Trapp ctrapp@rubin-levin.net | Chrisandrea L. Turner clturner@stites.com | U.S. Trustee ustpregion10.in.ecf@usdoj.gov |
| Andrew James Vandiver | Andrea L. Wasson | Jennifer Watt jwatt@kgrlaw.com |

| | | |
|---|--|--|
| avandiver@aswdlaw.com | andrea@wassonthornhill.com | |
| Stephen A. Weigand sweigand@ficlaw.com | Charles R. Wharton Charles.R.Warton@usdoj.gov | Sean T. White swhite@hooverhull.com |
| Michael Benton Willey michael.willey@ag.tn.gov | Jason P. Wischmeyer jason@wischmeyerlaw.com | James T. Young james@rubin-levin.net |

I further certify that on November 6, 2017, a copy of the foregoing pleading was served via electronic mail transmission on the following:

Thomas Richard Alexander, II
tra@rgba-law.com

By: /s/ James A. Knauer
James A. Knauer, Chapter 11 Trustee
111 Monument Circle, Suite 900
Indianapolis, Indiana 46204-5125
Telephone: 317-692-9000
Facsimile: 317-777-7451
jak@kgrlaw.com